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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,862	01/14/2004	Jerome S. McIntee		3398

7590 08/04/2004

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EXAMINER

THOMAS, ALEXANDER S

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 08/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/756862

Applicant(s)

MCINTEE ET AL.

Examiner

Alexander Thomas

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 19-33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19, 21 and 23-33 rejected under 35 U.S.C. 103(a) as being unpatentable over applicants' acknowledged state of the art in view of Nockemann et al. The primary reference discloses using tarpaulins to cover a person before removal from a vehicle involved in an accident; see page 1, first two paragraphs, of the instant specification. The secondary reference discloses a tarpaulin comprising an inner layer of pliable cut resistant material 20 sandwiched between outer layers of a different material 14, 24; see column 3, lines 12-18 and column 4, lines 14-47. These outer layers 14, 24 may be said to provide the feel of a blanket since they are made of a textured fabric and non-woven textile, respectively. It would have been obvious to one of ordinary skill in the art to use the tarpaulin of the secondary reference in the process of the primary reference in view of the teachings in the primary reference of the use of a tarpaulin and the teachings in the secondary reference of a protective, cut resistant tarpaulin. It would also have been obvious to one of ordinary skill in the art to adjust the amount of cut resistance in the product of the prior art to provide the desired degree of resistance for a particular end use, particularly in view of the teachings in the secondary reference at the paragraph bridging columns 6 and 7 wherein it is suggested to adjust cut resistance. Similarly, it would have been obvious to one of ordinary skill in the art to select any well-known cut resistant

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material and to use it to form the cut resistant layer in the article of the reference to provide desired structural properties to the laminate for a particular end use.

3. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicants' acknowledged state of the art in view of Nockemann et al as applied to claims 19, 21 and 23 -33 above, and further in view of Williams. Williams discloses the use of grommets in automobile tarpaulins; see column 3, lines 28-29. It would have been obvious to one of ordinary skill in the art to use grommets on the tarpaulin of the prior art to provide a means of attaching the tarpaulin to an automobile or to a place of storage.

4. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicants' acknowledged state of the art in view of Nockemann et al as applied to claims 19, 21 and 23-33 above, and further in view of Sesselmann. Sesselmann discloses the structural equivalence of needling and quilting layers together; see column 4, lines 45-49. It would have been obvious to one of ordinary skill in the art to quilt together layers 16, 20 and 24 of the Nockemann et al article as opposed to needling them together in view of the teaching of equivalence in Sesselmann.

Priority

5. It is requested that applicant update the reference to the status of the parent application in the specification to include the patent number 6,696,128

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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ALEXANDER S. THOMAS
PRIMARY EXAMINER